

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 232

BY REVENUE AND TAXATION COMMITTEE

AN ACT

RELATING TO INCOME TAXATION; AMENDING SECTION 63-3029, IDAHO CODE, TO REVISE DEFINITIONS AND TO REVISE PROCEDURES FOR TAXATION OF AN ESTATE OR TRUST; DECLARING AN EMERGENCY, PROVIDING RETROACTIVE APPLICATION AND PROVIDING FURTHER APPLICATION TO PROCEEDINGS.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 63-3029, Idaho Code, be, and the same is hereby amended to read as follows:

63-3029. CREDIT FOR INCOME TAXES PAID ANOTHER STATE. (1) A resident individual shall be allowed a credit against the tax otherwise due under this chapter for the amount of any income tax imposed on the individual, an S corporation, partnership, limited liability company, estate or trust of which the individual is a shareholder, partner, member, or beneficiary (to the extent attributable to the individual as a result of the individual's share of the S corporation's, partnership's, limited liability company's, estate's or trust's taxable income in another state), for the taxable year by another state on income derived from sources therein while domiciled in Idaho and that is also subject to tax under this chapter.

(2) For purposes of this section:

(a) "sState" shall include any state of the United States, the District of Columbia, or any possession or territory of the United States.

(b) Except as provided in subsection (3)(a)(i) of this section, "individual" shall include estates and trusts.

(c) References to "domiciled in" shall mean "a resident of" for purposes of computing the credit for trusts and estates.

(3) (a) Except as provided in subsection (3)(b) of this section:

(i) The credit provided under this section to an individual shall not exceed the proportion of the tax otherwise due under this chapter that the amount of the adjusted gross income of the taxpayer derived from sources in the other state as modified by this chapter bears to the adjusted gross income of the taxpayer as modified by this chapter. This limitation applies to all individuals.

(ii) The credit provided under this section an estate or trust shall not exceed the proportion of the tax otherwise due under this chapter that the amount of the federal total income of the estate or trust derived from sources in the other state and taxed by that state bears to the federal total income of the estate or trust. "Federal total income of the estate or trust derived from sources in the other state" shall be determined as provided under section 63-3026A, Idaho Code, as if the estate or trust was a nonresident.

(b) When tax is paid to another state on income of an S corporation, partnership, limited liability company, estate or trust, the limitation calculated in subsection (3)(a) of this

section with respect to that income shall be based on the proportion that the individual taxpayer's share of the entity's taxable income correctly reported to the other state under the laws of the other state bears to the individual's adjusted gross income. This limitation shall apply whether the tax is paid to the other state by the individual or by the S corporation, partnership, limited liability company, estate or trust.

(c) The credit provided under this section shall further be limited to the tax paid to the other state.

(4) To substantiate the credit allowed under this section, the state tax commission may require a copy of any receipt showing payment of income taxes to the other state or a copy of any return or returns filed with such other state, or both.

(5) No credit allowed under this section shall be applied in calculating tax due under this chapter if the tax upon which the credit is based has been claimed as a deduction, unless the tax is restored to income on the Idaho return.

(6) The credit shall not be allowed if such other state allows a credit against taxes imposed by such state for taxes paid or payable under this chapter.

(7) For purposes of this section an income tax imposed on an S corporation, partnership, limited liability company, estate or trust includes:

(a) A direct tax imposed upon the income for the taxable year of the S corporation, partnership, limited liability company, estate or trust; and

(b) An excise or franchise tax that is measured by the income for the taxable year of the S corporation, partnership, limited liability company, estate or trust.

(8) For purposes of subsection (7) of this section, an excise or franchise tax is "measured by income" only if the statute imposing the excise or franchise tax provides that the base for the tax:

(a) Includes:

(i) Revenue from sales;

(ii) Revenue from services rendered; and

(iii) Income from investments; and

(b) Permits a deduction for the cost of goods sold and the cost of services rendered.

(9) A part-year resident is entitled to a credit, determined in the manner prescribed by the state tax commission, for income taxes paid to another state in regard to income which is:

(a) Earned while the taxpayer is domiciled or residing in this state; and

(b) Subject to tax in such other state.

(10) If the interest in an S corporation, partnership, ~~or~~ limited liability company, estate or trust was held for less than the entire taxable year, the share attributable to the individual shall be allocated in the same manner as for federal purposes.

SECTION 2. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval, and retroactively to January 1, 2009, and shall apply to all proceedings pending before the State Tax Commission, the Board of Tax Appeals or the courts of this state on the effective date of this act.